IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3418 of 2004

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMESHWAR SHARMA - Petitioner(s)
Versus
UNION OF INDIA & 3 - Respondent(s)

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Appearance :
MR SHASHIKANT S GADE for Petitioner(s) : 1,
MRS VASAVDATTA BHATT for Respondent(s) : 1 - 4.
RULE SERVED for Respondent(s) : 2 - 4.
MR RAVI KARNAVAT for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 10/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

The petitioner-Shri Rameshwar Sharma has challenged in this petition the impugned judgment and order dated 24.11.2003 passed by the learned Central Administrative Tribunal, Ahmedabad Bench (for short "the Tribunal") whereby the learned Tribunal dismissed O.A. No.387 of 1999 filed by the petitioner-applicant challenging the order of Disciplinary Authority imposing penalty of stoppage of three increments with cumulative effect, which was upheld by the Appellate / Revisional authority.

From the impugned order passed by the learned Tribunal it clearly appears that the incident in question came to the notice of the authority on the report being submitted by one Diesel Foreman. As per the case of the Department, the quarrel took place between the petitioner and one Shri Bharat Prajapati. During the scuffle, Shri Prajapati slipped and fell on the platform and received some minor injuries on his person. Shri Bharat Prajapati had clearly stated in writing that he does not want to proceed against the petitioner-applicant and file criminal case against him with police. In spite of it, the disciplinary proceedings were initiated against the petitioner and penalty of stoppage of three increments with future effect was imposed. It is clear from the impugned judgment and order passed by the learned Tribunal that the petitioner was not given material documents which were relied on by the

Disciplinary Authority while passing the impugned order of penalty, which has caused serious prejudice to the petitioner-delinquent in defending his case. It also appears that the Disciplinary Authority placed heavy reliance on a mercy application filed by the petitioner-applicant wherein he had explained the cause for quarrel between him and Shri Bharat Prapapati and his promise that such incident will not be repeated in future. The incident in question took place way back in April, 1997 and till today no such incident has occurred. The petitioner present before the court, solemnly stated that after the unfortunate incident, once again his relations with Shri Bharat Prajapati have become cordial. The officers of the Railways present before the court, were not in a position to contradict it.

Because of non-supplying of material documents to the petitioner in departmental inquiry, the order of penalty is vitiated. Therefore, the same is required to be quashed and set aside as it is in violation of principles of natural justice. We make it clear that if we had not quashed the order of penalty, then we would have certainly interfered with the order of penalty which was harsh and while passing such order the authority had not taken into consideration unblemished long service of 17 years.

In view of the above discussion, the impugned order of penalty of stoppage of three increments with future effect passed by the Disciplinary Authority is

hereby quashed and set aside. The O.A. Filed by the petitioner-original applicant before the learned Tribunal stands allowed by quashing and setting aside the impugned order passed by the learned Tribunal. Rule is made absolute with no order as to costs.

(B.J.SHETHNA, J.)

(M.D.SHAH, J.)

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